

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION No 1171 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KANAK A MEHTA

Appearance:

MS ROOPAL R PATEL for the Petitioner.

MR MANOJ N POPAT for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/12/2002

ORAL JUDGEMENT

The petitioner-S.T. Corporation has filed this Miscellaneous Civil Application under Section 24 of the Civil Procedure Code for transferring Special Civil Suit No.18 of 1990, pending in the Court of Civil Judge (S.D.), Kutch at Bhuj, to the City Civil Court, at

Ahmedabad. The present petitioner herein filed a suit, being Civil Suit No.2125 of 1989, against the opponent herein, which is pending in the City Civil Court, Ahmedabad. The case of the plaintiff in the said suit is that in pursuance of the acceptance of the tender of the opponent, a contract was entered into between the petitioner and the opponent for the purpose of carrying out work of construction of Staff Quarters of Class-I, Class II and Class III. It is the case of the plaintiff that the construction was to be carried out as per the terms and conditions of the tender and that the time was the essence of the contract. According to the plaintiff, the work was to be completed within 18 months, but the opponent could not complete the said work within the stipulated time, with the result that the Corporation suffered a loss to the extent of Rs.1,83,527.84. The aforesaid suit, therefore, is filed in the City Civil Court at Ahmedabad for recovery of the said amount.

The opponent herein has also filed a suit, being Special Civil Suit No.18 of 1990, which is pending in the Court of Civil Judge (S.D.), Kutch at Bhuj, for alleged recovery of Rs.6,37,906.49 towards damages, difference in rates and labour charge, etc. Both the suits arise out of the same contract entered into between the parties, and it is the say of the applicant that the suit filed by the opponent before the Civil Judge (S.D.), at Bhuj is subsequent to the suit filed by the present applicant. It is, therefore, prayed that the aforesaid suit, pending in the Court of Civil Judge (S.D.), Kutch at Bhuj be transferred to the City Civil Court at Ahmedabad.

I have heard both the sides and considering the facts and circumstances of the case, in my view, Special Civil Suit No.18 of 1990, which is pending in the Court of Civil Judge (S.D.), Kutch, at Bhuj, is required to be transferred to the City Civil Court, at Ahmedabad so that both the suits can be heard together as they arise out of the same contract between the parties. Special Civil Suit No.18 of 1990, pending in the Court of Civil Judge (S.D.), Bhuj, stands transferred to the City Civil Court, Ahmedabad, and after such transfer, the same is ordered to be heard with Civil Suit No.2125 of 1989, which is also pending before the City Civil Court, Ahmedabad. Rule is accordingly made absolute with no order as to costs.

(apj)